



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,235	06/24/2002	H. Randall Craig	HRCM.P-004	6384
21121	7590	06/28/2005	EXAMINER	
OPPEDAHL AND LARSON LLP			MENDOZA, MICHAEL G	
P O BOX 5068				
DILLON, CO 80435-5068			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/064,235	CRAIG, H. RANDALL	
Examiner	Michael G. Mendoza	Art Unit	3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 14 June 2005.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 2,3,5,11-15,18,19 and 21-31 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 11-15,18,19 and 21-31 is/are allowed.

6)  Claim(s) 2,3 and 5 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## DETAILED ACTION

### ***Allowable Subject Matter***

1. The indicated allowability of claims 2, 3, and 5 are withdrawn in view of the newly discovered reference(s) to Atchisson 3964173. Rejections based on the newly cited reference(s) follow.
2. Claims 11-15, 18, 19, 21-31 are allowable over the prior art of record.

### ***Claim Rejections - 35 USC § 102***

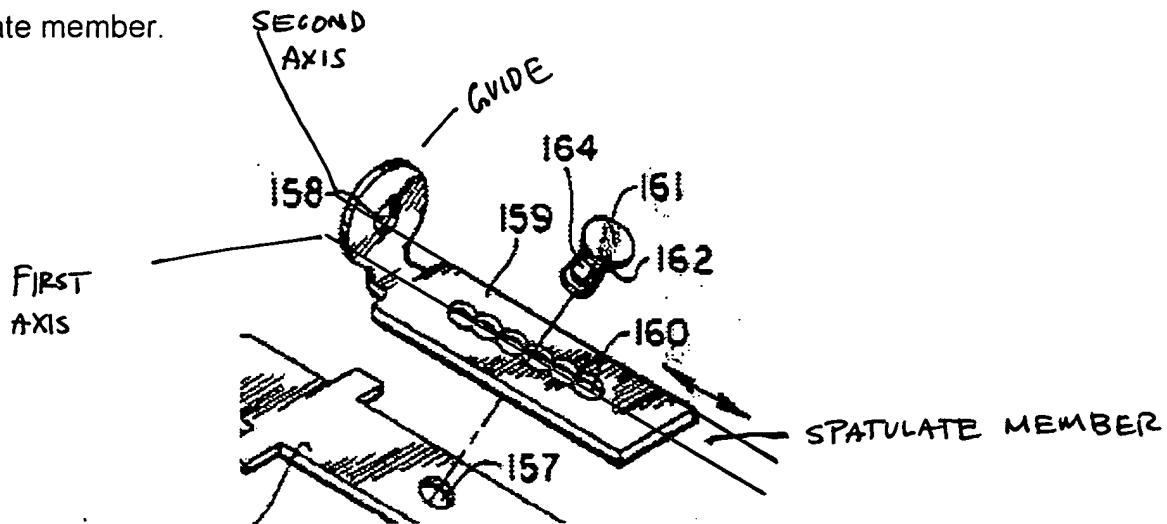
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 5 rejected under 35 U.S.C. 102(b) as being anticipated by Atchisson.
5. Atchisson teaches having a first end and a second end, the first end comprising a spatulate member having a length along a first axis; the second end comprising a guide shaped to receive a cylindrical axle for rotation on a second axis, the guide shaped to constrain the first axis in fixed position relative to the second axis and extending for a second length, the first and second axes constrained to lie within a single plane; the spatulate member extending in a first direction and a second direction from the first axis, the first direction and second direction being on opposite sides of the plane; the spatulate member extending along its first axis away from the guide for a distance greater than the second length; and the apparatus further characterized in that a width is defined by the extension in a first direction and a second direction of the spatulate

member, the width being less than one-third of the length along a first axis of the spatulate member.



***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atchisson.

8. As to claim 2, Atchisson teaches having a first end and a second end, the first end comprising a spatulate member having a length along a first axis; the second end comprising a guide shaped to receive a cylindrical axle for rotation on a second axis, the guide shaped to constrain the first axis in fixed position relative to the second axis and extending for a second length, the first and second axes constrained to lie within a single plane; the spatulate member extending in a first direction and a second direction from

the first axis, the first direction and second direction being on opposite sides of the plane; and the spatulate member extending along its first axis away from the guide for a distance greater than the second length. It should be noted that Atchisson fails to specifically teach wherein the first and second axes are more than one-quarter inch apart and less than an inch apart. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the claimed range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Furthermore it is well known in the art of rifle site to have the site slightly raised from the rifle. Raising the site to high would make aiming inaccurate.

9. As to claim 3, Atchisson teaches having a first end and a second end, the first end comprising a spatulate member having a length along a first axis; the second end comprising a guide shaped to receive a cylindrical axle for rotation on a second axis, the guide shaped to constrain the first axis in fixed position relative to the second axis and extending for a second length, the first and second axes constrained to lie within a single plane; the spatulate member extending in a first direction and a second direction from the first axis, the first direction and second direction being on opposite sides of the plane; and the spatulate member extending along its first axis away from the guide for a distance greater than the second length. It should be noted that Atchisson fails to specifically teach wherein the length of the spatulate member is greater than one inch and less than seven inches. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the claimed range, since it has been

held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. If the site was made to large it would take up too much room on the rifle, and if the site was made too small it would not have a good range for adjustment.

#### **Contacts**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (571) 272-4698. The examiner can normally be reached on Mon.-Fri. 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on (571) 272-44963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MM

MM

  
GLENN K. DAWSON  
PRIMARY EXAMINER